



The Right to Vote Act

The Right to Vote Act, introduced by Congressman Mondaire Jones and Senator Jon Ossoff, ensures that courts respect the right to vote as the fundamental right that it is.

The right to vote is only as real as the protection courts provide it. Lately, courts have not provided enough. The Supreme Court has long recognized that the right to vote is a “fundamental political right” because it is “preservative of all rights.” Since 2010, however, states have imposed more voting restrictions than at any time since Jim Crow. The Roberts Court has never struck down a state voting restriction as unconstitutional — not even once. And lower courts are increasingly dismissive of voting rights claims as well.

The Right to Vote Act would restore judicial protection of the right to vote in federal elections. No government could make it harder to vote than it already is (known as “retrogression”) unless it can show, by clear and convincing evidence, that doing so is the least restrictive means of significantly furthering an important interest. Voters could challenge longstanding laws that substantially impair their ability to vote as well, under a slightly more flexible standard. **No longer could states justify voter suppression in the name of preventing voter fraud that doesn’t exist.** The government should not be allowed to burden one of our most important rights, unless it meets our legal system’s highest standards.

This bill gives voters and voting rights lawyers a vital tool against voter suppression. Congress cannot anticipate and prevent every voter suppression tactic governments might devise. As the Supreme Court wrote more than 50 years ago, our history includes “unremitting and ingenious defiance of the Constitution” to sustain racist voter suppression. By ensuring that any voter suppression law faces heightened scrutiny, this flexible provision complements the other efforts Congress must enact to protect our democracy.

The Right to Vote Act also protects against election subversion. The bill incorporates the broadest definition of the right to vote in current law, which protects “all actions necessary to make a vote effective” including “having [a] ballot counted and included in the appropriate totals.” As a result, states and localities would have to justify any interference with fair and accurate vote counts on the same stringent terms that voter suppression measures would face.

Congress has the power to guarantee the right to vote in federal elections. As the Court reaffirmed in 2013, the Elections Clause (Article I, Section 4) grants Congress plenary power over federal elections. That authority includes the power to create a legal right against unjustifiable burdens on voting and to establish judicial standards for enforcing that right.

Endorsing Organizations: The Right to Vote Act is endorsed by leading civil rights groups, including the American Civil Liberties Union (ACLU), NAACP Legal Defense and Educational Fund, Campaign Legal Center, Demos, Fair Fight Action, LatinoJustice PRLDEF, Lawyers’ Committee for Civil Rights Under Law, People For the American Way, Protect Democracy, and Southern Coalition for Social Justice.